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09/802,852	03/09/2001	David W. Piermattei	4690-1	7812

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EXAMINER

KYLE, MICHAEL J

ART UNIT	PAPER NUMBER
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3676

DATE MAILED: 06/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/802,852

Applicant(s)

PIERMATTEI, DAVID W.

Examiner

Michael J Kyle

Art Unit

3676

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 10-13 and 15-71 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-8, 10-12, 16-18, 20, 23, 25-27, 29-36, 38-42, 44-54, 56-71 is/are rejected.
- 7) ☒ Claim(s) 2, 13, 15, 19, 21, 22, 24, 28, 37, 43 and 55 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claim 1 is objected to because lines 5-6 of claim read, "whereby said shoulder includes (i) through (iii) following". Limitation (ii) of the claim then recites limitations concerning the extended post (beginning in the second line of (ii)). Limitations regarding the extended post should not be included in limitation directed towards the shoulder. Examiner suggests reciting the limitations of the extended post from (ii) in the second paragraph of the claim (lines 3-4).
2. Claim 1 is objected to because of the limitations "said post" in lines 5 and 20-21. Examiner suggests replacing these limitations with --said extended post--, to maintain consistency in the claims. Examiner requests this change to be made in claims 3, 4, 6, 7, 8, 18, 69, and any other instance of "said post" throughout the claims depending from claim 1.
3. Claim 1 is objected to because of the phrase "whereby said shoulder includes (i) through (iii) following:" in lines 5-6. Examiner suggests replacing this with --whereby said shoulder includes:-- to clarify the claim language. Examiner requests similar changes to be made to similar phrases in claims 10, 45, 57, 70, and 71, to clarify the claim language.
4. Claim 1 is objected to because both the post and the shoulder are recited as having a traverse extent. Examiner suggests clarifying the terminology by referring to the shoulder's extent traverse as the --extent traverse of the shoulder--, and referring to post's traverse extent as --traverse extent of the first end-- in each instance of the limitation.
5. Claim 1 is objected to because the paragraph from line 19 to line 22. To more clearly present the claimed subject matter, examiner suggests replacing this paragraph as follows:

Art Unit: 3676

--wherein at least said shoulder and said first end of said extended post are attached to each other prior to said device being affixed to the desired article, wherein said first end has a traverse extent to said length, said traverse extent of the first end is at least as large as any other post extent that is perpendicular to said length;--

6. Claims 2 and 11 are objected to because of the limitation, "said article" in line 4 of claim 2, and line 3 of claim 11, respectively. This limitation should read, --said desired article--.

7. Claim 10 is objected to because of the limitations "said post" in lines 11, 12, and 16-17. Examiner suggests replacing these limitations with --said extended post--, to maintain consistency in the claims. Examiner requests this change to be made in claims 12, 40-43, and any other instance of "said post" throughout the claims depending from claim 10. Additionally, examiner requests that claims 45-56 be revised for similar instances.

8. Claim 34 is objected to because of the limitation that the attachment has "at least one extent that has an extent". It is unclear which feature is claimed by this limitation. Examiner suggests changing this terminology to --at least one extent that extends--.

9. Claim 34 is objected to because of the limitation "the uniform cross sectional shape". Examiner believes this should --a uniform cross sectional shape--, as a cross sectional shape has not been previously provided for in the claims. Additionally, it is unclear which feature the uniform cross sectional shape is referring to. For the purpose of this examination, the examiner considers it to be the cross sectional shape of the extended post.

10. Claims 36 and 37 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or

Art Unit: 3676

rewrite the claim(s) in independent form. Claims 36 and 37 recite only situation (a) and situation (b) to hold, respectively, as presented in claim 10. However, because the limitations are already presented in claim 10, and it is true that one of situations (a) and (b) holds, claims 36 and 37 essentially repeat the same limitation presented in claim 10.

11. Claim 57 is objected to because of the limitation "prevents movement of said hole along said length" in lines 29-30 of the claim. Examiner believes "hole" should be --extended post--.

Claim Rejections - 35 USC § 102

12. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

13. Claims 1, 4, 6, 8, 10-12, 16-18, 20, 23, 27, 29-32, 34-36, 38-42, 44-54, 56-58, and 61-71 are rejected under 35 U.S.C. 102(b) as being anticipated by Parsons (U.S. Patent No. 5,667,441). Parsons discloses a device (31, 32) affixed to a desired article (14, 16) comprising an extended post (31) having a length extending between first (end near 32) and second (end extending out of tube) ends of the extended post and an aperture in the post (27). The post (32) extends through an opening (36) in the desired article (14, 16). An outwardly extending portion (portion shown in shadow in figure 5) extends from an exterior side of a shoulder (32). The aperture (27) is in the outwardly extending portion. The opening has an enclosed perimeter that is fully closed about the post. The shoulder (32) includes an interior side (side contacting 50) facing toward an interior volume defined by the desired article. The interior volume is adapted for placing one or

Art Unit: 3676

more objects (50) therein. The exterior side (from which 31 extends) faces away from the interior volume. The shoulder also has an extent traverse to the length which prevents the shoulder from extending through the opening. The shoulder and the first end of the post are attached prior to the device being affixed to the desired article. A traverse extent of the first end of the post is at least as large as any other post extent that is perpendicular to its length. The first end and the shoulder remain attached to each other throughout an affixing of the device to the desired article. The post includes a first portion within the opening (36) that connects a portion of the shoulder (32) and the outwardly extending portion. The user of the device can attach different items (29) to the device by inserting a corresponding attachment (28) in the aperture (27).

14. With respect to claims 4 and 6, Parsons discloses the post to have only one aperture only one aperture, and that the post and shoulder are connected at a 90 degree angle.

15. With respect to claim 8, Parsons discloses the post and shoulder to be continuously fixedly attached to each other prior to being affixed and throughout affixing the device to the desired article, and independently of whether the device is affixed to the desired article or not.

16. With respect to claim 10, Parsons discloses a device to be affixed to a desired article (14, 16) where the desired article has an interior side facing an interior volume defined by the desired article (portion bounded by 14, 16, 18) with one or more objects (50) placed therein. The desired article also includes an exterior side facing away from the interior volume. Parsons also discloses an extended post (31) with an aperture (27), and a shoulder (31) with first (surface with post 32 extending therefrom) and second (surface contacting 50) surfaces. The post extends

Art Unit: 3676

from the first surface. The post and shoulder are attached to each other prior to and throughout the device being affixed to desired article. Parsons also discloses a contact portion including a portion of the shoulder (see figure 5). A user can reversibly attach different items (29) to the device by inserting a corresponding attachment (28) in the aperture. The contact portion includes a portion of the length extending through an opening (36). The extended post (31) does not include an extent that is expanded in a direction traverse to the length wherein the expanded extent substantially prevents movement of the opening along the length from the shoulder to the aperture.

17. With respect to claims 11 and 12, Parsons discloses the contact portion to include a portion of the length extending through the desired article wherein the article supports the device regardless of an orientation of the desired article about the length, and that removal of the post from the shoulder will damage the device.

18. With respect to claim 16, Parsons discloses the article to include a flexible portion (along the length of 14) that is adapted to conform to a user's body. Examiner notes that "flexible" is relative term, and that many materials, including metals, have some degree of flexibility.

19. With respect to claims 17 and 18, Parsons discloses the desired article (14, 16) to include an extent greater than a largest extend of the shoulder (transverse extend of 14) and that the first portion (portion of 31 located in 36) includes an extent of the post extending through the desired article such that the device is supported on the desired article independently of an orientation of the extent of the post relative to the desired article.

Art Unit: 3676

20. With respect to claims 20 and 23, Parsons discloses the first portion to support the device on the desired article and the extended post (31) is rigid with the aperture being in a fixed orientation relative to the shoulder.

21. With respect to claims 27, 29, and 30, Parsons discloses there is no component between the shoulder (31) and the aperture for providing a clamping pressure. The extended post supports the device on the desired article independently of what portion of the length, between the shoulder and aperture contacts the desired article. The post also includes an entire exterior shape that does not prevent the device from being removed from the opening by sliding the post in a direction from the shoulder towards the second end.

22. With respect to claims 31 and 32, Parsons discloses the entire exterior shape of the post to have a substantially uniform cross sectional shape, and is a cylinder.

23. With respect to claims 34 and 35, Parsons discloses a corresponding attachment (28) to be engaged with the aperture (27). The attachment has an extent that extends in a direction traverse to the length. The extent is larger than the uniform cross sectional shape in the same direction.

24. With respect to claims 36 and 38, Parsons also discloses a contact portion including a portion of the shoulder (see figure 5). A user can reversibly attach different items (29) to the device by inserting a corresponding attachment (28) in the aperture. The contact portion includes a portion of the length extending through an opening (36). The extended post (31) does not include an extent that is expanded in a direction traverse to the length wherein the expanded extent substantially prevents movement of the opening along the length from the shoulder to the aperture. The post is rigid throughout its length.

Art Unit: 3676

25. With respect to claims 39 and 40, Parsons discloses a contact portion including a portion of the shoulder (see figure 5). A user can reversibly attach different items (29) to the device by inserting a corresponding attachment (28) in the aperture. The contact portion includes a portion of the length extending through an opening (36). The extended post (31) does not include an extent that is expanded in a direction traverse to the length wherein the expanded extent substantially prevents movement of the opening along the length from the shoulder to the aperture. The shoulder (32) has an extent traverse to the length that prevents the shoulder from extending through the opening. There is no extent between the shoulder and the aperture that prevents movement of the device along the length. The extended post (31) and the shoulder (32) are fixedly attached to each other when either one of the post and shoulder are affixed to the desired article (14, 16).

26. With respect to claims 41 and 42, Parsons discloses the extended post (31) and shoulder (32) are fixedly attached to each other throughout a process of removal of the device from the desired article. After removal of the device from the desired article (14, 16) the post and shoulder are fixedly attached to each other, and may be affixed back to the desired article by substantially only reinserting the extended post into the opening and reattaching an item in the aperture.

27. With respect to claim 44, Parsons discloses the shoulder (32) to have an extent traverse to the length that is greater than an adjacent extend of the opening (36). The entire extent of the device between the shoulder and the second end fits within the opening.

Art Unit: 3676

28. With respect to claim 45, Parsons discloses the method of providing a device (31, 32) to attach to a desired article (14, 16), where the desired article has an interior side facing an interior volume (inner periphery of 14 and 16) that contains an object (50), and an exterior side facing away from the interior volume. The desired article also includes a hole (36) from the interior side to the exterior side. Parsons also discloses fitting an outwardly extending portion of the post (31) through the hole (36), attaching an item (28) through a post aperture (27) such that the item restricts a disengagement of the device from the desired article, and removing the device from the desired article by removing that item (28) from the post aperture. While these steps are not explicitly disclosed in Parsons, they are inherent because of the structure of Parsons. Examiner notes that that the structural limitation regarding the device and the extended post recited in lines 8-22 of the claim are given little patentable weight because they are structural limitations in a method claim that are not present in a method form. For these limitations to be considered, they must be present in a method form (i.e. *providing an extended post including...or providing a device including...*). However, even if these limitations are considered, Parsons discloses the device (14, 16) to include an extended post (31) having a length and first and second ends, and an aperture (27). Parsons further discloses the device to include a shoulder (32) operatively connected to the extended post. The extended post includes an outwardly extending portion including an extent of the post from and including the post aperture (27) to the second end (outer most end of the post) where the entire exterior of the outwardly extending portion fits through the hole. The extended post also includes first portion (portion in opening 39) that provides support to the device on the desired article (14, 16).

Art Unit: 3676

29. With respect to claims 46 and 47, Parsons discloses supporting the device on the desired article independently of what portion of the length contacts the desired article. The step of removing includes sliding the extended post in a direction from the shoulder towards the second end.

30. With respect to claims 48-50, Parsons discloses the step of attaching to include engaging the item (28), and the item has an extent larger than the opening in a traverse direction. The post (31) loosely engages the opening and is rigid.

31. With respect to claims 51-53, Parsons discloses the shoulder to have a traverse extent that prevents the shoulder from extending through the opening (36) and the device does not include an extent along the length between the shoulder and the aperture that prevent movement of the device. The post and shoulder are fixedly attached to each other throughout the fitting step, and the step of removing includes detaching the post and shoulder as a single unit.

32. With respect to claims 54 and 56, Parsons discloses a reattaching step, after the removing step where the post and shoulder reattached as a single unit by inserting the extended post into the opening and reattaching an item (28) in the aperture (27). The shoulder has a traverse extent that is greater than an extent of the opening (36), and the device fits within the opening (36) for an entire extent between the shoulder and the second end.

33. With respect to claim 57, Parsons discloses an apparatus having a desired article (14, 16) and an attachment device (31, 32) comprising a desired article (14, 16) having an interior side facing an interior volume, and an exterior side. The attachment device includes an extended post (31) and an aperture (27). An attaching component (28) is inserted into the aperture for attaching

Art Unit: 3676

different items. Parsons further discloses a shoulder (31) having first and second surfaces (surface from which post 31 extends, and surface contacting 50, respectively) substantially as claimed. The desired article supports the attachment device regardless of an orientation of the desired article about the length. The desired article supports the device by a portion of the length extending through a hole (36) extending from the interior side to the exterior side. The extended post does not include an extent traverse to the length that prevents movement of the post along the length. The shoulder (32) has an extent that prevents the shoulder from extending through the hole.

34. With respect to claims 58, 61, and 62, Parsons discloses the shoulder (32) and post (31) to be fixedly attached to each other and cannot be separated without damaging the device. The attachment device (31, 32) is removed from the desired article by moving a direction relative to the desired article so that the hole disengages from the post. The attachment device is re-attachable to the desired article.

35. With respect to claims 63-65, Parsons discloses the shoulder (32) and post (31) to remain attached to one another throughout an affixing of the attachment device to the desired article. The extended post loosely engages the hole (36). The post and shoulder are detached from the desired article as a single unit.

36. With respect to claims 66 and 67, Parsons discloses the shoulder and a largest extent of the post traverse to the length are attached to each other prior to being affixed to the article. The post and shoulder remain attached to each other whether the device is affixed to the desired article or not. The shoulder and a traverse extent of the post are attached to each other prior to

Art Unit: 3676

the attachment device being affixed to the desired article. The traverse extent is as large as any other traverse extent of the post.

37. With respect to claims 68 and 69, Parsons discloses the post to not include an extent that is expanded such that the expanded extent prevents movement of the opening along the length. The entirety of the post, from the first end to the traverse extent, is fixedly attached to each other prior to and throughout affixing of the device to the desired article.

38. With respect to claims 70 and 71, Parsons discloses an apparatus comprising a desired article (14, 16) having an interior surface adapted for placing an object (50) therein, an exterior side, and an opening (36). Parsons also discloses an extended post (31) operatively connected to a shoulder (32). The shoulder includes an interior side (contacting 50) an exterior side (from which 31 extends) and a traverse extent that prevents the shoulder from extending through the opening (36). The perimeter of the opening closes about the post (31). An outwardly extending portion of the post extends outwardly from the exterior side and includes an aperture (27). There is no component providing a clamping pressure for securing the device to the desired article. The extended post (31) has a first portion that connects a portion of the shoulder and the outwardly extending portion, and provides support to the device on the desired article. An attachment (28) is provided in the aperture for attaching different items (29) to the device. The shoulder and a traverse extent of the post are attached to each other prior to the device being affixed to the desired article. The traverse extent of the post is at least as large as any other extent of the post. The shoulder (32) and traverse extent of the post (31) remain attached to each other throughout an affixing of the device to the desired article.

Claim Rejections - 35 USC § 103

39. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

40. Claims 3, 7, 59, and 60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parsons in view of Wu (U.S. Patent No. 5,363,680). Parsons recites all of the limitations of claim 1 above, but does not disclose the post and the shoulder to be threadedly connected to each other or for the post and shoulder to be connected to each other with a ball and socket connection.

41. Wu teaches a structure for a key chain in which a post (20, 21, 22, 23) is threadedly connected to a shoulder (10) for the purpose of allowing the post to be screwed into a plurality of main bodies. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Parsons as taught Wu so that the post may be screwed into a plurality of main bodies.

42. Wu also teaches the use of a ball (231) and socket (201) connection for the purpose of allowing quick and easy removal/assembly of the post (23) from the shoulder (20) (column 2, lines 16-24). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Parsons as taught by Wu in order to allow for quick and easy removal/assembly of the post from the shoulder.

Art Unit: 3676

43. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Parsons in view of Budreck (2,975,497). Parsons recites all of the limitations from claim 1 above, but does not disclose the aperture to be a double counter sunk hole.

44. Budreck teaches a key ring holder with a double counter sunk hole (48) for key chain clearance purposes (column 3, lines 64-68). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Parsons as taught by Budreck to facilitate easy attachment and detachment of items through the aperture.

45. Claims 25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parsons in view of Monk (U.S. Patent No. 3,837,190). Parsons discloses that the device is secured to the desired article. However, Parsons does not disclose a washer that fits over the post.

46. Monk teaches a washer (50) that fits over the post to act as a spacer. The washer is slidable between the desired article (32) and a second end. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Parsons as taught by Monk in order to control the space between the desired article and the second end.

47. Additionally, the washer (50) of Monk is placed between the desired article (32) and an aperture (38). Examiner notes the desired article (32) exists on both sides of the apertures (38) in Monk. Therefore, because the washer is on the post it is between an aperture and the desired article. The spacer is to ensure proper spacing, and would be used the same when combined with Parsons. Furthermore, the washer is not integral with the post. The device can be detached from the desired article by removing the washer and attachment from the post. Examiner notes that "removing" is a process limitation in an article claim and is given little patentable weight.

48. Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Parsons. Parsons does not disclose the post to have an exterior shape, throughout its length, having a polygonal cross section. However, applicant has provided no criticality for making the post of polygonal cross section rather than a cylinder. Changing the shape of the post, for no specific reason, is considered to be a choice of design, as no new or unexpected result is produced from such a change. Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to change the cross sectional shape of the post as a matter of design choice.

Allowable Subject Matter

49. Claims 2, 13, 15, 19, 21, 22, 24, 28, 37, 43, and 55 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Additionally, all claims must be amended to overcome any other objections.

Response to Arguments

50. Applicant's arguments with respect to claims 1-8, 10-13, and 15-28, have been considered but are moot in view of the new ground(s) of rejection. All rejected claims now stand rejected either individually by Parsons, or a combination based on Parsons.

Conclusion

Art Unit: 3676

51. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J Kyle whose telephone number is 703-305-3614. The examiner can normally be reached on Monday - Friday, 8:30 am - 5:00 pm.

52. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford can be reached on 703-308-2978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

53. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

mk



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